



# NEWS RELEASE

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#2009-001

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January 1, 2009

FOR IMMEDIATE RELEASE

## BART INVESTIGATES OFFICER-INVOLVED FATAL SHOOTING

**Oakland, Ca.** - The Bay Area Rapid Transit District is investigating an incident early New Year's Day at Fruitvale Station in which a BART police officer's firearm discharged, fatally wounding a 22-year-old man.

The man, identified as Oscar Grant, died at Highland Hospital. The officer involved underwent drug and alcohol testing and has been placed on administrative leave, as is standard procedure.

The incident began when BART police received a report that two groups of riders were involved in an altercation on a train after leaving West Oakland Station around 2 a.m. Five BART police officers responded to the platform at Fruitvale and began to separate the arguing parties and remove them from the train and detain them.

During that process, an officer's firearm discharged, wounding Mr. Grant. BART's preliminary investigation indicates that Mr. Grant was not restrained in handcuffs at the time.

In addition to the BART Police investigation, as is standard procedure, the District Attorney's Office is conducting a separate independent investigation, with which BART is cooperating fully.

### POLICE ASK FOR PUBLIC'S HELP

As BART Police continue to investigate, they are asking for the public's help. Anyone with information about the incident is asked to call (877) 679-7000, extension 7040.

### BART POLICE BACKGROUND

BART police officers are fully sworn peace officers who have the same powers of arrest and authority to carry firearms as city police officers and county sheriff's deputies. In addition, BART officers attend the same police academies and receive continuous police training.

No further information is being released at this time.



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**01.04.09**

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## **Statement by BART Police Chief Gary Gee**

*to Media & Public on 1/4/09 During News Conference*

On behalf of the BART Police Department and the entire BART organization, we want to express our condolences to the family of Oscar Grant.

I want to assure Mr. Grant's family and the public that we are taking this investigation very seriously. And, we are committed to complete an unbiased and thorough investigation into what happened on the morning of New Year's Day.

In addition to our investigation, we are fully cooperating with the Alameda County District Attorney's office, which is conducting a parallel and independent investigation. We are providing all of the evidence of our investigation to the District Attorney.

This case is not even four days old – we are in the early stages of the investigation and will do a thorough job. We are reviewing all of the evidence, including videos, witness statements, and physical evidence as we compile a complete and accurate account of what happened on in the early morning of January First.

As frustrating as it is, I want to stress that we cannot and will not jeopardize this case by discussing details before the investigation is complete.

While some have already begun to draw conclusions and speculate about what happened well before all the facts are in, doing so may compromise independent recollections from witnesses and does a disservice to getting at the answers we are seeking.

We continue to ask people to come forward if they have any evidence or eyewitness accounts. They can call our tip line at (877) 679-7000, extension 7040. Or, they wish to present their information directly to the Alameda County DA's office. The DA's general number is (510) 272-6222.

We ask for the public to be patient, refrain from jumping to conclusions, and allow the investigators do their jobs. As has been previously said, there is very little information that can be released at this time. I can, however, provide some basic facts.



alcohol testing and is on administrative leave, which is standard procedure.

The incident began when police received a report that two groups of riders were involved in an altercation on a train after it left West Oakland Station around 2 a.m. BART police officers responded to the platform at Fruitvale and detained several persons. Our preliminary investigation indicates that Mr. Grant was not in handcuffs at the time of the shooting.

I cannot tell you when this investigation will be completed. But, again, I assure you that we are committed to conducting an accurate and thorough investigation.

We recognize that it is frustrating that we cannot answer many of your questions right now – but doing so could lead to speculation and compromise the integrity of the ongoing investigations.

Again, we ask for your patience and I thank you for coming.

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#2009-002

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January 7, 2009

FOR IMMEDIATE RELEASE

## BART POLICE OFFICER INVOLVED IN FATAL SHOOTING RESIGNS

**Oakland, CA** – Scheduled to meet with BART police investigators today, the BART Police officer involved in the tragic shooting New Year's Day at Fruitvale Station submitted his resignation effective immediately.

On Monday, the officer's attorney postponed a meeting that had been scheduled by BART investigators for Tuesday and sought to defer the meeting until next week. BART investigators declined the delay and scheduled a meeting with the officer for this morning. At this morning's scheduled meeting, the officer's attorney and his union representative submitted his resignation letter. The officer was not present.

BART investigators have urged the officer to meet and cooperate with the transit agency's investigation into the fatal shooting.

BART Police investigators have notified the Alameda County District Attorney's Office of the resignation and this development. The District Attorney's office is conducting an independent probe of the January 1, 2009 shooting. The BART Police investigation will continue to seek and examine all available evidence and will continue its full cooperation with the ongoing independent investigation by the District Attorney.

"This shooting is a tragic event in every respect for all involved," BART General Manager Dorothy Dugger said. "We recognize that the family and friends of Oscar Grant are in mourning and we extend our condolences."



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**01.09.09**

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### **Transcript of statement from General Manager Dorothy Dugger, January 9 Press Conference**

**Chief Spokesperson Linton Johnson:** "Thank you everybody for coming, this is Dorothy Dugger, she is the General Manager at BART, her name is spelled D-O-R-O-T-H-Y, last name Dugger, D-U-G-G-E-R. We also have Police Chief Gary Gee over here, his last name is spelled G-E-E, G-A-R-Y is his first name. And Dorothy would like to address the public and the media."

**General Manager Dorothy Dugger:** "Members of the press, thank you for coming this afternoon. As I begin on behalf of the BART Board of Directors and myself I would like to express to the family of Oscar Grant our deepest sympathies for the loss of their loved one. Our hearts and prayers go out to them at this time of grief. Additionally, I want to extend condolences to the entire community, which is also feeling the loss of this tragic event."

I'm here today to update you on our investigation into the death of Oscar Grant, to answer some of the questions that we heard at yesterday's Board of Director's meeting and to tell you what BART is doing next. Yesterday at the Board of Director's meeting we saw an extraordinary outpouring from dozens of citizens who came before the BART Board of Directors to make their voices heard. I hope that this will be an important step in the healing process for the community. We heard their voices, we heard their anger, frustration.

At the conclusion of that meeting, the Board of Directors directed that a meeting of the Board be scheduled to enable it to act to create a subcommittee of the Board, to examine major police incidents and to provide greater focus on BART's police responsibilities. Today we have scheduled that meeting for 1:30 on Monday, January 12. The Board will meet first in closed session and then follow with a public session to take action on the establishment of that committee. While the specific scope and breadth of the committee's responsibilities is still under development, the overriding responsibility and intent of the Board is to make sure that such a terrible tragedy never happens again.

I'd also like to take this opportunity to update you on the investigation process and responsibilities based on some of the discussions held in the last couple of days. I'm not sure there is a clear understanding of the roles and responsibilities. There are, as we have discussed, throughout the past week, two parallel criminal investigations proceeding, one conducted by the BART police investigators and a separate, independent investigation by the District Attorney's Office. As you are aware, it is the District Attorney who has the responsibility to determine and bring any charges forward in this matter.



rights under the Peace Officer's Bill of Rights and generally under law to retain counsel, and has not been forthcoming with comment. As was reported yesterday, the District Attorney has welcomed the Oakland Police Department into their investigation, as well. The BART investigators have interviewed all of the officers who were on the platform with the exception of Officer Mesherle, and have interviewed other witnesses and examined video evidence. We are cooperating fully with the investigation with the District Attorney's Office. All of the evidence that the BART investigation has gathered has been provided on an ongoing basis to the District Attorney's Office, so they have access to everything that we have completed or conducted. That said, I have asked the BART, that the BART police investigators complete their preliminary investigation in no less than a week, so that the complete assembly of that evidence as a single package can be delivered to the District Attorney.

In conclusion, I believe yesterday's meeting was just the beginning of a dialogue between BART and the community coming out of this incident. We will continue to create further opportunities to further that dialogue. As was discussed at the Board meeting yesterday, are working to identify a time and location where we can hold community meetings outside of the formal Board process. Since the first day of this tragedy we have expressed our deepest condolences to the family and friends of Oscar Grant and I continue to do so again today. This was indeed a tragic event for all involved and we extend our condolences.

Thank you. I would be happy to take any questions."

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# **MEDIA ADVISORY**

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#2009-003

January 10, 2009

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**FOR IMMEDIATE RELEASE**

## **BART RESPONSE TO TODAY'S ATTORNEY GENERAL ANNOUNCEMENT**

Today, BART General Manager Dorothy Dugger responded to the announcement by Attorney General Jerry Brown's decision to send an observer to the Alameda County District Attorney's office as it investigates the officer-involved shooting at the Fruitvale BART Station on January 1, 2009.

The District Attorney, the Oakland Police and BART Police are each conducting separate, parallel independent investigations into the death of 22-year-old Oscar Grant.

"We welcome the Attorney General's participation," Dugger said. "We are committed to an effective and thorough investigation in full cooperation with the District Attorney and the Attorney General. We hope the investigation is concluded as quickly and as efficiently as possible and that the District Attorney provides the answers that BART and the public are all seeking."

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# NEWS RELEASE

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#2009-004

January 10, 2009

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FOR IMMEDIATE RELEASE

## BART TO HOLD COMMUNITY MEETING IN RESPONSE TO FRUITVALE OFFICER INVOLVED SHOOTING

A delegation of BART Board members will hold a meeting tomorrow, Sunday, January 11, 2009 from 2 p.m. until 4 p.m. with community leaders and elected officials following the officer-involved shooting on New Years Day at the Fruitvale BART Station.

During Thursday's BART Board of Directors meeting, in which all nine board members listened to community members express their concerns about the tragic shooting, Board Member Carole Ward Allen promised she'd hold a community meeting to continue the dialogue and to hear from community leaders about how to move forward. "During our meeting last Thursday, I pledged to follow up with a concerted effort to engage in dialogue with the citizens of Oakland," she said. "This meeting we have planned will be another step in the healing process."

**WHAT:** Meeting with community leaders & elected officials to gather feedback

**WHEN:** 2 p.m. to 4 p.m. Sunday, January 11, 2009

**WHERE:** Joseph P. Bort MetroCenter  
Lawrence D. Dahms Auditorium  
101 Eighth Street  
Oakland, CA 94607

**WHO:** Members of the BART Board of Directors, community leaders and elected officials

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**01.12.09**

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## **BART Police complete criminal investigation, provide results to District Attorney's Office**

BART General Manager Dorothy Dugger and BART Police Chief Gary Gee announced today that BART Police detectives have completed their initial investigation into the tragic shooting death of Oscar Grant on New Year's Day and have provided the results of that investigation to Alameda County District Attorney Tom Orloff's office this morning. Now it's the District Attorney's responsibility to decide whether to file charges in the case.

"The District Attorney will review and consider the evidence in the BART investigation along with the results of his own office's separate, independent investigation and any other evidence available in the Oakland Police Department's investigation," General Manager Dorothy Dugger said. "We urge the District Attorney to expeditiously review all the evidence available to him and bring this investigation to a conclusion."

While the BART Police Department's initial investigation is complete, BART will continue to cooperate fully with the District Attorney's office.

"This shooting is a tragic event in every respect for all involved," BART General Manager Dorothy Dugger said. "We recognize that the family and friends of Oscar Grant are in mourning and we extend our condolences."

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#2009-005-REVISED

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January 12, 2009

FOR IMMEDIATE RELEASE

\*\*\*REVISED\*\*\*

## **TOP BART OFFICIALS TO ANNOUNCEMENT SIGNIFICANT DEVELOPMENT IN OFFICER-INVOLVED SHOOTING CASE**

**OAKLAND, CA** – BART General Manager Dorothy Dugger and BART Police Chief Gary Gee will hold a news conference at BART headquarters starting at 1 p.m. to make a major announcement in the officer-involved shooting that happened at the Fruitvale Station on the morning of New Years Day.

<b>WHAT:</b>	Significant Development regarding officer-involved shooting case
<b>WHEN:</b>	January 12, 2009 at 1 p.m.
<b>WHERE:</b>	BART Headquarters Kaiser Building 300 Lakeside Drive 18 <sup>th</sup> Floor Oakland, CA 94612
<b>WHO:</b>	BART General Manager Dorothy Dugger, BART Police Chief Gary Gee

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# NEWS RELEASE

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#2009-007

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January 12, 2009

FOR IMMEDIATE RELEASE

## BART DIRECTORS CREATE POLICE DEPARTMENT REVIEW COMMITTEE

**OAKLAND, CA** – At a specially-called board meeting today, the BART Board of Directors unanimously approved the creation of a committee that will provide additional oversight of the BART Police Department and the review of major police incidents.

The BART Police Department Review Committee's objective is to provide the Board with greater focus on BART Police Department responsibilities.

Board President Thomas Blalock appointed Director Carole Ward Allen to chair the new committee. Director Ward Allen's district includes Fruitvale Station, where a BART police officer fatally shot Oscar Grant on January 1, 2009.

"The BART Police Review Committee will work to make sure that we are doing everything possible to ensure our Police Department is the best that it can possibly be and to prevent an incident like the one on New Year's Day from ever occurring again," Blalock said. "Our goal is to make sure that we are doing everything possible to ensure our police department is operating at the highest and most professional standards."

"I want to again express the sincere condolences of this Board to the family of Oscar Grant," Director Ward Allen said. "While the events on New Year's Day that led to his death were indeed tragic, it is our hope that something positive and lasting will occur as a result. Some of the main purposes of the BART Police Department Review Committee include making sure that this kind of incident never happens again and to review the models of citizens police oversight committees from other agencies so that we can explore creating one designed specifically to address BART Police Department issues."

Board Member Joel Keller, who represents portions of Contra Costa County, was appointed the new committee's vice-chairperson. Board Member Lynette Sweet, who represents portions of Alameda, Contra Costa and San Francisco counties, will also serve on the committee, as will Board Member Tom Radulovich who represents portions of San Francisco County. The new committee's responsibilities will focus on:

- Immediately initiating a review of basic training and certification requirements for BART police officers
- Conducting a review of existing BART Police Department policies and procedures, including General Orders and Operational Directives
- Identifying opportunities to strengthen current practices
- Identifying best practices that should be adopted by BART Police Department
- Developing a critical response plan
- Surveying the structure of civilian police review boards and independent auditors for Bay Area police departments and major transit agencies to support the Board of Directors' consideration of this issue

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The new committee will also receive timely briefings on major police incidents and meet with elected officials and community members to discuss related concerns.

At last week's regularly scheduled board meeting -- the first since the shooting incident -- Board President Blalock announced his intention to form the committee to examine major police events. The Board was legally barred from forming the committee at last week's meeting because an item was not on the official agenda.

## BART POLICE BACKGROUND

BART's police officers are fully sworn peace officers who have the same powers of arrest and authority to carry firearms as city police officers and county sheriff's deputies. In addition, BART officers attend the same police academies and receive continuous police training.

BART's police officers are certified by the California Commission on Peace Officer Standards and Training and they undergo a rigorous background investigation and must complete a comprehensive training program, including field training. To view the rigorous peace officer standards, visit the commission's website at [www.post.ca.gov](http://www.post.ca.gov). You can view the current hiring standards, course requirement and the certification regulations, among other items. The BART Police Department is required to provide on-going training to its officers and has established policies and procedures, including general orders that prescribe appropriate conduct that is expected of all members of the department, both sworn and non-sworn staff. BART officers are expected to maintain the highest standards of professionalism, which include ethical conduct and dedication to public service.

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#2009-009

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January 14, 2009

FOR IMMEDIATE RELEASE

## BART REACTS TO ARREST OF FORMER OFFICER

**OAKLAND, CA** – Today, BART's top officials issued the following statement following the arrest of former BART Police Officer Johannes Mehserle involved in the death of Oscar Grant on the morning of New Year's Day at the Fruitvale BART Station:

"From the moment this shooting occurred, nine detectives worked diligently to conduct a thorough and complete investigation and to swiftly turn the results over to Alameda County District Attorney Thomas Orloff," BART Board President Thomas Blalock said. "The District Attorney has decided, based on the evidence presented to him, to bring charges. Mr. Mehserle is going to have to stand trial for the crime with which he is charged. This is now in the hands of the District Attorney and ultimately a jury to decide. This investigation shows that no one is above the law, but everyone is entitled to due process of the law. BART investigated this shooting thoroughly and treated the investigation and information no differently because the suspect involved was a police officer. Now we have to let due process take its course."

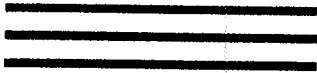
"We want the public to know that this one incident is not reflective of BART, its police or its employees," BART General Manager Dorothy Dugger said. "I have great confidence in the professionalism of the BART Police Department. This was a tragic event in which a life was lost for which someone has been arrested and charged. The BART Police Department is a professional force of 206 sworn men and women who work everyday to ensure the safety of more than 100 million customers who annually ride BART."

"We know that this shooting has caused anger and concern in the community. We pledge to work with the community to rebuild the trust it has placed in our transit agency," BART Board Member Carole Ward Allen said. "As the first step in that process, the BART Board of Directors on Monday established a Board Committee, which I chair, to review police practices and procedures, including hiring and training, and to identify opportunities to further strengthen the rigorous standards currently in place which meet or exceed California Peace Officer Standards and Training. Our goal is to make sure that something like this never happens again."

### BACKGROUND ON BART POLICE

Rigorous standards for hiring exceed those established by the State of California Commission on Peace Officer Standards and Training (POST); training is POST compliant and continues throughout an officer's career. Established policies and procedures guide officer conduct. Officers are expected to maintain the highest standards of ethical conduct.

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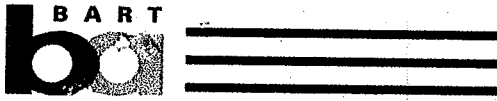


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- BART Police Department hiring and screening procedures are fully compliant with the California Commission of Peace Officer Standards and Training, and recommendations of the International Association of Chiefs of Police and the Federal Bureau of Investigation. POST standards are posted on [www.BART.gov](http://www.BART.gov).
- POST requirements include academy training, a full psychological and medical evaluation and a comprehensive background evaluation
- BART exceeds POST requirements by requiring:
  - polygraph test
  - 1 year of college
  - 20 weeks of field training with daily officer review
  - 1 year probationary period.

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# NEWS RELEASE

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#2009-010

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January 24, 2009

FOR IMMEDIATE RELEASE

## BART RESPONDS TO NEW KTVU VIDEO

OAKLAND, CA – BART issued a statement today regarding the new video KTVU aired last night regarding the events on the morning of New Year's Day.

"We do not tolerate police misconduct," Director Carole Ward Allen said. She chairs the newly formed BART Police Department Review Committee of the BART Board of Directors. "We expect our police to uphold the highest standards of professionalism and ethical conduct. Our Board Committee will be working to ensure that standard is maintained."

"I take this new allegation of police use of unreasonable force extremely seriously," BART General Manager Dorothy Dugger said. "I have directed Police Chief Gary Gee to conduct a rigorous internal affairs investigation into this officer's actions and to take appropriate action where warranted. In doing so, we will continue to work closely with the Alameda County District Attorney so as to not compromise the prosecution of the criminal case. As we said when we completed our preliminary investigation and delivered that to the District Attorney, this remains an on-going investigation. We will fully examine any new evidence or information including this new video, which KTVU aired last night. We continue to urge KTVU to provide BART Police and the District Attorney's Office with a complete and unedited copy of its video so that it can be reviewed and analyzed by investigators."

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## QUESTIONS AND ANSWERS REGARDING NEW KTVU VIDEO

### **Why didn't you know about this from your investigation of this matter?**

In all of our interviews of people on the platform or on the train, we received no allegations of unreasonable force by any officer other than now former BART Police officer Johannes Mehserle. Alameda County District Attorney Tom Orloff has also stated that he is not pursuing charges against any other officers at this time.

### **What are the District Attorney and BART going to do about this?**

The District Attorney is responsible for determining any additional criminal charges. BART is conducting its own internal affairs investigation about this newly reported incident.

### **Who is the officer on the video?**

The District Attorney has requested that we not release the names of any of the officers involved in the incident on January 1. We are prevented by law from releasing the names of officers who are the subject of internal affairs investigations.

### **What is the status of the officer at this time?**

We made a determination that all of the officers who were involved in the incident on the Fruitvale Station platform on New Year's Day would be placed on administrative leave.

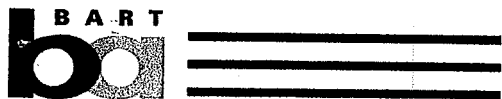
### **How are you investigating this?**

We are conducting our investigation in accordance with the Public Safety Officers Procedural Bill of Rights. The investigation will encompass attempting to talk to everyone who we believe may have relevant information and reviewing any and all pieces of evidence.

### **What have you done so far?**

We asked KTVU to turn over the video to investigators – the station has yet to do so. Several days ago, we informed the District Attorney that KTVU has this video.

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# NEWS RELEASE

[www.BART.gov](http://www.BART.gov)

#2009-011

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January 29, 2009

FOR IMMEDIATE RELEASE

## BART TO TURN OVER INTERNAL AFFAIRS INVESTIGATION TO INDEPENDENT, THIRD PARTY

**OAKLAND, CA** – BART will turn over its internal affairs investigation to an independent, third party to investigate the actions of all the officers involved in the events leading up to the shooting death of Oscar Grant the morning of New Year's Day on the Fruitvale Station platform.

"It's imperative that we determine whether the actions of those officers on the platform violated the policies and practices of the BART Police Department," BART Board Member Carole Ward Allen said. Ward Allen chairs the newly formed Board of Directors BART Police Department Review Committee. "A lot of people have said they have no faith that the BART Police Department can police itself. By authorizing an independent, outside investigation, we hope to reassure the public that we are transparent and accountable."

"While we have every confidence in the capabilities of our BART Police Department to investigate its own officers, we believe that handing off this investigation to an independent third party will assure the public that we take this investigation extremely seriously and its outcome will be credible," BART Board Member Joel Keller said. Keller is the Vice Chair of the BART Police Department Review Committee. "The BART Police Department and the agency need to rebuild trust with the public and one way to do that is to hand this off to a third party and let the facts take us wherever they go," he said.

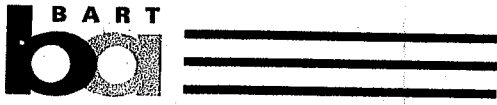
### DIFFERENCE BETWEEN CRIMINAL & INTERNAL INVESTIGATIONS

There are two investigations taking place. The focus of this news release is on the internal affairs investigation. This investigation looks into whether the actions of any officer on the platform violated BART Police policies and procedures. The results of an internal affairs investigation can lead to changes in policies and procedures, retraining or disciplinary action, up to and including termination.

The other investigation is the criminal investigation. Alameda County District Attorney Tom Orloff is using the evidence that BART Police turned over to him on January 12 to charge former officer Johannes Mehserle with murder. The District Attorney also used evidence from his separate, independent investigation as well as the Oakland Police Department's investigation to determine the murder charge.

BART's role in the criminal investigation is on-going and will include the examination of physical force used to restrain the individuals on the platform. BART Police will turn over that information to the District Attorney and he will decide if an officer's action warrants criminal prosecution.

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# NEWS RELEASE

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## TOP TO BOTTOM, INDEPENDENT REVIEW OF BART POLICE

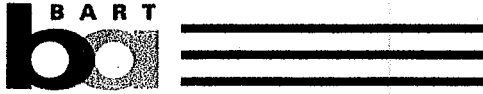
In addition to turning over the internal affairs investigation to an independent third party, the BART Police Department Review Committee will also engage the best experts we can in the field of law enforcement to conduct a top to bottom review of all BART Police policies and procedures. These independent experts will also:

- Examine recruitment, hiring & training
- Review all police policies & procedures
- Identify best practices
- Recommend changes

BART has not yet determined which entities will conduct the outside, independent internal affairs review or the independent expert top-to-bottom review of departmental policies and procedures.

"Whatever consultants we choose, they will include local experts who know and reflect this community and who understand the deep rooted concerns minorities in my district have about police profiling and brutality," Ward Allen. "My committee's goal is to make sure what happened on New Year's Day never happens again."

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# NEWS RELEASE

[www.BART.gov](http://www.BART.gov)

#2009-020

February 11, 2009

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**FOR IMMEDIATE RELEASE**

## **BART TO ANNOUNCE SELECTION OF INDEPENDENT INTERNAL AFFAIRS FIRM IN FRUITVALE SHOOTING INVESTIGATION**

Today, members of the BART Board Police Department Review Committee will announce the selection of an independent firm to conduct the internal affairs investigation into the January 1, 2009 fatal shooting of Oscar Grant. They will also provide an update on the Committee's work to date.

The news conference is scheduled for 3:30 p.m. at BART Headquarters, 300 Lakeside Drive, Oakland.

Media representatives attending today's news conference are asked to enter the Kaiser Center on the ground floor, check in with the security guards and then take an elevator to the 18<sup>th</sup> Floor. A BART staff member will escort media representatives to the conference room.

**WHAT:** Announcement of Independent Internal Affairs Investigation Firm

**WHEN:** 3:30 p.m. Wednesday, February 11, 2009

**WHERE:** BART Headquarters Building (Kaiser Center)  
18<sup>th</sup> Floor  
300 Lakeside Drive  
Oakland, CA 94612

**WHO:** Members of the BART Board of Directors and others

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**02.11.09**

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## **BART turns over internal affairs probe to independent, third-party law firm**

BART announced today that it has turned over its internal affairs investigation to the Oakland-based law firm of Meyers Nave. Meyers Nave is an independent, third party that will investigate the actions of all the officers present during the events leading up to the shooting death of Oscar Grant on January 1, 2009, on the Fruitvale Station platform.

"Meyers Nave has strong ties to this community and extensive experience in conducting internal affairs investigations," BART Board Member Carole Ward Allen said. Ward Allen chairs the newly formed Board of Directors BART Police Department Review Committee. "All of us on the Committee felt it was essential for the public to have complete confidence in the findings of this internal investigation – and that the best way to guarantee that confidence was to bring someone in from the outside with an impeccable record to conduct the investigation independently."

Video of the press conference where the announcement was made is available on [BARTtv](#).

### **DIFFERENCE BETWEEN INTERNAL & CRIMINAL INVESTIGATIONS**

There are two investigations taking place; the internal affairs investigation now being handled by Meyers Nave and the ongoing criminal investigation by the BART Police Department, which includes the investigation into the actions of the six officers who were with now-former officer Johannes Mehserle on the platform at the time of the shooting.

"The criminal investigation is examining any and all use of force by the officers that night," BART Board Member Joel Keller said. Keller is Vice Chair of the BART Police Department Review Committee. "The results of the criminal investigation will be delivered to the District Attorney's office, which will determine if any of the actions of the six other BART police officers rise to the level of prosecutable conduct. The internal affairs investigation will primarily focus on the time those officers were on the platform, however, it will also look into the events on the train that preceded the officers' arrival as well investigate the tactics and actions of the command staff who directed the officers."

If anyone has any information about the case, please contact Meyers Nave at 510-808-2055 or email [bartinfo@meyersnave.com](mailto:bartinfo@meyersnave.com) or contact the BART Police Department at 510-464-7040.

### **BOARD COMMITTEE'S NEXT STEPS**

Now that the Board Committee has turned over the internal affairs investigation, it will also engage experts in law enforcement to conduct a top-to-bottom review of all BART Police policies and



while the Committee members:

- Review the different approaches to citizen oversight of police.
- Hear from members of established citizen oversight review boards.
- Work to identify the best oversight model for BART police.
- Conduct an in-depth review of the practices and policies of the BART Police Department.

#### **BOARD COMMITTEE ENLISTS EXPERTISE OF REGINALD LYLES**

Additionally, the Board Committee announced today that it has retained the services of Reginald Lyles to support the Committee in its work. Mr. Lyles is a long-time member of the Oakland faith community. He spent over 20 years with the Berkeley Police Department, and he retired from law enforcement as a Novato police captain in 2003.

Mr. Lyles will support the work of the Committee as it seeks significant community input and involvement in the establishment of citizen oversight of BART police and in the comprehensive review of the BART Police Department.

#### **ABOUT MEYERS NAVE**

Meyers Nave is known throughout the state for its expertise in a broad range of police work and public law. The Oakland based law firm has a solid reputation built on the highest ethical standards. The firm has a 20 year history of producing independent, objective reports that have led to the discipline and termination of officers in other jurisdictions as well as changes in the policies and procedures of other law enforcement agencies. The Meyers Nave team that will conduct the internal investigation includes:

##### **Jayne Williams**

Jayne Williams is the managing principal of Meyers Nave. She is a member of the firm's public law department and currently serves as the city attorney for the City of San Leandro. Jayne has extensive experience in strategic planning, managing and coordinating litigators and transactional attorneys in complex civil litigation and innovative public project initiatives. She is an acknowledged expert in all aspects of representation of elected and appointed public officials and public agencies.

##### **Kim Colwell**

Kim Colwell is the chair of Meyers Nave's Tort/Civil Rights Litigation Practice Group and Litigation Manager for the entire Firm. Kim has handled hundreds of police conduct cases have involved police civil rights litigation, from minor traffic stops through hostage situations, false arrest, taser cases and shootings.

##### **David Cunningham**

David Cunningham, a principal in Meyers Nave's LA office, has extensive experience in police work, having presided over 250 use of force cases while serving on the Board of Police Commissioners, the civilian oversight body over the Los Angeles Police Department. David is also currently an appointed



## **Art Hartinger**

Art Hartinger is a principal lawyer Nave and chairperson of the Labor and Employment Department. Art regularly handles administrative matters, including employee termination proceedings, grievances and wage and hour matters, where he advises and supervises internal investigations.

## **FREQUENTLY ASKED QUESTIONS REGARDING HIRING OF OUTSIDE FIRM TO CONDUCT INTERNAL AFFAIRS INVESTIGATION**

### **WHY HIRE AN INDEPENDENT FIRM TO DO AN INTERNAL AFFAIRS INVESTIGATION?**

We are taking this unusual step of handing over our internal affairs investigation to an independent third party to assure ourselves and the public of the absolute objectivity of this investigation. It is imperative that BART determine whether the actions of the officers on the platform violated any policy or procedures of the BART Police Department or state or federal law. While we have every confidence in the capabilities of our BART Police Department's Internal Affairs office to investigate its own officers, we believe that handing off this investigation to an independent third party will assure the public that we take this investigation extremely seriously and the findings and recommendations that Meyers Nave presents will be credible. We believe we need to rebuild trust with the public and one way to do that is to ask a third party to have a reputable independent firm conduct the investigation.

### **WHAT'S THE DIFFERENCE BETWEEN BART'S INTERNAL AFFAIRS INVESTIGATION AND ITS CRIMINAL INVESTIGATION?**

There are two investigations taking place. The internal affairs investigation, which BART has retained Meyers Nave to conduct, will investigate whether the actions of any officer on the platform violated BART Police policies and procedures. The results of an internal affairs investigation can lead to changes in policies and procedures, retraining or disciplinary action, up to and including termination.

A separate criminal investigation was conducted to determine if any laws were violated. District Attorney Tom Orloff used the investigation conducted by the BART Police Department, along with the parallel investigation by his office (with the assistance of the Oakland Police Department), to criminally charge former officer Mehserle. BART's role in the criminal investigation is ongoing and will include the review of the level of force used by the officers on the platform. Now that the DA has released BART police investigators to resume interviews with witnesses and police officers and has provided critical video evidence, BART Police hope to complete its investigation and turn over the results to the District Attorney's Office in the next two weeks. The District Attorney's Office will decide if any other officer's action warrants criminal prosecution. BART Police investigators anticipate presenting the investigation to the District Attorney in the coming weeks. The District Attorney will determine if criminal charges are warranted.

### **WHAT WILL MEYERS NAVE'S MISSION BE?**

The firm will conduct an independent, objective and unbiased internal affairs investigation of all seven BART police officers who were present during in the New Year's Day shooting. While the firm will



also look at whether the policies, practices and procedures used on New Year's Day conform to both state and federal laws as align with the best practices of the policing profession.

Here are some examples of what the firm will investigate:

- Whether or not the level of force used was appropriate;
- Whether or not the officers acted professionally and their contact with the public was appropriate;
- Whether they had reasonable cause to detain;
- Whether or not the officers acted reasonably.

### **HOW WILL THE FIRM ACCOMPLISH ITS MISSION?**

Meyers Nave will begin by gathering and reviewing every piece of evidence that is available, including the 40 plus witness statements, platform camera video and mobile phone videos. The firm will also review relevant BART Police Department's policies, including General Orders, Operational Directives and Standard Operating Procedures. The firm will seek to interview all the officers on the platform to get a detailed understanding of what they were doing, when they did it and why.

Meyers Nave will also re-interview all of the witnesses to gain a more comprehensive view of what they saw and heard, focusing on both the shooting and the actions of other officers on the platform. If they identify additional witnesses, they will interview them as well.

The firm will analyze the actions of each officer separately and decide whether each officer's actions were appropriate. If the firm finds that the officers acted outside of established policies and procedures, it will recommend appropriate actions BART should take. Additionally, the firm will:

- Retain independent "Police Practices" experts to look at use of force issues – both physical use of force and verbal commands
- Review and analyze the various citizen and BART videos of the scene
- Reconstruct a timeline of events
- Review BART's investigation thus far – and comment on whether BART conducted it properly.

### **WHAT WILL THE FIRM DO WITH ITS FINDINGS?**

Meyers Nave will turn over its findings and recommendations to BART. Those recommendations could include:

- A finding about each and every officer
- Whether there should be discipline up to and including the termination of any officers if they acted outside of BART Police Department policies, or outside of state and/or federal laws
- Training or retraining of officers and/or supervisors



recommendations to the extent legally permissible. Because some of the findings and recommendations will personnel information and details that involve active litigation, not all information can be dis

#### **HOW CAN THE PUBLIC TRUST THIS WILL BE INDEPENDENT, UNBIASED ACCOUNT OF WHAT HAPPENED?**

Meyers Nave is known throughout the state for its expertise in a broad range of police work and public law. The firm has been around for 20 years and has a solid reputation built on the highest ethical standards. The firm has a history of producing independent, objective reports that have led to the discipline and termination of officers in other jurisdictions as well as changes in the policies and procedures of other law enforcement agencies. Furthermore, the members of the team must abide by the strict code of ethics that the California State Bar has established to guide the profession.

#### **HOW LONG WILL IT TAKE TO PRODUCE THE REPORT?**

Meyers Nave's goal is to produce the report in three months. However, the timetable will largely depend on being able to schedule timely interviews with all of the people to be interviewed.

#### **IF I HAVE INFORMATION ABOUT THE CASE, HOW DO I CONTACT BART POLICE OR MEYERS NAVE?**

If anyone has any information about the case, please contact Meyers Nave at 510-808-2055 or email [bartinfo@meyersnave.com](mailto:bartinfo@meyersnave.com) or contact the BART Police Department at 510-464-7040.

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**03.19.09**

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## **BART outlines scope of work for review of Police Department**

BART is retaining outside experts in law enforcement and civil rights to conduct a comprehensive review of its Police Department following the New Year's Day officer-involved shooting of Oscar Grant. With input from the BART Board of Directors and the public, the agency has finalized the attached scope of work, which it will use to hire these outside experts.

The goal is to thoroughly evaluate BART Police Departmental policies and tactics, from recruitment, hiring and training to use of force, investigatory practices and how BART Police handle citizen complaints. This review will identify any changes that BART should make, as well as identify best practices in progressive policing that BART should adopt.

Download the [Scope of Services for BART Police Department Review and Compensation Schedule](#) (27k .pdf).

Details on submitting a proposal can be found in the [Doing Business](#) section. The deadline for proposals is close of business on Tuesday, March 31.

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**03.26.09**

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## **BART Board approves expanding internal affairs investigation**

The BART Board of Directors on Thursday voted to increase the amount BART will pay a law firm to conduct an independent internal affairs investigation into the Jan. 1 fatal shooting of a passenger by a former BART police officer.

The initial \$99,000 agreement with law firm Meyers Nave was based upon estimates for interviewing about 40 witnesses identified in the criminal investigation into the shooting of Oscar Grant. However, because the internal affairs probe spans a wider range, including a review of events leading up to the shooting, "the breadth of the necessary investigation is greater than anticipated when the original estimate was provided," BART managers wrote in recommending that the Board approve the expanded contract.

The Board voted to amend the agreement to cover services up to \$250,000.

Meanwhile, BART is seeking proposals from independent firms to conduct an additional, separate review of BART Police Department policies and tactics, from recruitment, hiring and training to use of force, investigatory practices and how BART Police handle citizen complaints. The deadline for those proposals to be submitted is March 31 and more information can be found [here](#).

A chronology of BART news releases related to the New Year's Day shooting, including various steps BART has taken in response to the incident and links to videos of press conferences, can be found [here](#).

Former officer Johannes Mehserle has been charged with murder. A preliminary hearing in the criminal case is scheduled for May 18.

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**04.03.09**

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## **BART's lawyer provides background on response to Grant family lawsuit**

The attorney representing BART said the man a former BART police officer shot on New Year's morning died as a result of a tragic error. Responding to a federal lawsuit filed by family of Oscar Grant, attorney Dale Allen filed an answer to the lawsuit that seeks \$50 million from the transit agency, its police chief and three officers.

Allen said that the shooting death of Grant was a tragic accident by now former BART Police Officer Johannes Mehserle, who, according to witnesses and video, expressed shock and surprise when he mistakenly used his gun instead of a taser.

"BART accepts responsibility for defending the lawsuit arising from this tragedy involving one of its police officers," Allen said. "That is why we continue to attempt mediation with the family of Mr. Grant, so that we can bring closure and resolution for them."

The shooting was captured on mobile phone videos and played on local television stations, but Allen said "there is far more to this story than is seen in the videos and far more information from witnesses about what really occurred that night that lead up to the tragic, mistaken shooting."

Allen said a group of men, including Grant, were detained after they left the train because they were suspected in involvement in the fight, based on witness reports. There are numerous witnesses, Allen said, who have state that the situation was "rowdy, profane and threatening to passengers" prior to and when the BART police arrived. Subsequently, the scene on the platform, he said, became chaotic.

The Grant family's attorney claims in his lawsuit against BART that police had no reason to pull Grant and several others off a Dublin-Pleasanton bound train after BART Police held the train at Fruitvale Station to investigate reports of an on-board fight.

### **WHY IS BART FILING THIS RESPONSE TO THE GRANT FAMILY LAWSUIT NOW?**

The Grant family's attorney, John Burris, filed his now \$50 million lawsuit in federal court on March 2, 2009. By law BART has to file an answer to his lawsuit by April 6, 2009.



required to answer the civil lawsuit now in federal court. Our answer relies on the evidence and witness statements that are available to us at this time.

What about the other investigation underway...why is BART pursuing the internal affairs investigation if BART has already determined the outcome of the civil case? The internal affairs investigation has a different focus than the Grant family's lawsuit. The internal affairs investigation looks at whether an officer violated BART policies and procedures. The Grant family's lawsuit alleges liability for a wrongful death. BART's defense of this lawsuit focuses specifically on answering the allegations that John Burris has alleged - not on whether there were internal affairs violations.

#### **WHY IS BART PURSUING MEDIATION WITH THE GRANT FAMILY'S LAWYER?**

We are open to all avenues that could bring closure to this matter.

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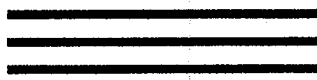
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April 23, 2009

FOR IMMEDIATE RELEASE

## BOARD SELECTS GROUP TO REVIEW BART POLICE FOLLOWING NEW YEAR'S SHOOTING

**OAKLAND, CA** – Today the BART Board of Directors unanimously selected an organization to conduct a comprehensive top to bottom review of the BART Police Department following the January 1, 2009 officer-involved fatal shooting on the Fruitvale BART Station platform.

"The National Organization of Black Law Enforcement Executives (NOBLE) will look into all aspects of the BART Police Department," BART Board Member Carole Ward Allen said. Ward Allen chairs the Board's newly created BART Police Department Review Committee whose aim is to provide greater focus on the exercise of BART Police responsibilities and, among other things, assist the full Board in establishing civilian oversight of BART Police. "This is the latest in a series of significant steps we're taking to ensure a similar incident does not occur again," Ward Allen said.

The review should take approximately four months and the cost of the contract is \$127,688.

### WHAT NOBLE WILL DO

The review will provide an independent assessment of the fundamental aspects of BART Police including but not limited to:

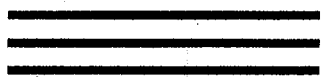
- **Culture and the expectations of customers and the communities BART Police serve**
- **Recruitment, hiring and promotion standards & practices to determine how well equipped BART Police are to promote safety, customer service, public trust and effective policing in the diverse communities BART serves**
- **Training and equipment, including use of force, conduct of investigations, diversity, cultural awareness and sensitivity and avoidance of racial profiling**
- **Policies and procedures to determine if they are comprehensive, reflect best practices and are effective in directing a professional, well-regarded and trusted police force**
- **Internal investigatory practices for fairness, objectivity and thoroughness**

"The goal of the study will be to provide BART with evaluation results and recommendations that will help us identify any changes we need to make to ensure the BART Police Department is structured and administered effectively and that the department follows the industry's best practices as appropriate in the environment in which BART operates," Joel Keller, Vice Chair of the BART Police Department Review Committee said.

As part of this process, NOBLE proposes a community engagement methodology that is designed to bring law enforcement and concerned citizens together to identify community concerns and apply principles of community policing to create a shared vision and joint strategy to address concerns.

"What we really liked about NOBLE's proposal is that the organization truly demonstrated it understands the value of engaging the community in the process while at the same time it showed it has the

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expertise to conduct a comprehensive top to bottom review of our police force," BART Board Member Lynette Sweet said. Sweet sits on the committee and was one of the members who helped evaluate proposals for this contract. "This study will provide us with findings and recommendations that will get the job done in four months at which time we'll know what our police do well and what they need to do to improve."

## ABOUT NOBLE

NOBLE was founded in September 1976. NOBLE is committed to conducting research and sponsoring programs that lead to the formation of policies and procedures to improve the delivery of law enforcement services. NOBLE has a long history helping numerous police departments across the country with issues including:

- **Community oriented policing**
- **Use of force policies**
- **Crime prevention and fear reduction programs**
- **Cultural diversity training**
- **Victim's assistance programs**
- **Racial profiling**
- **Religious violence reduction programs**

## OTHER STEPS BART HAS TAKEN SINCE THE SHOOTING

Since the officer-involved shooting, BART has been conscientiously working to ensure that a similar incident does not occur again. Some of the major steps BART has taken include:

- **Completing criminal investigation:** On January 12, 2009, BART Police completed the criminal investigation of now former officer Johannes Mesherle and turned the matter over to the Alameda County District Attorney's Office. The DA filed murder charges against Mesherle and his preliminary hearing is May 18, 2009.
- **Completing criminal investigation of all other officers present on the platform:** BART completed the criminal investigation of the other officers who were on the platform during the shooting. BART Police turned this investigation over to the Alameda County District Attorney's Office on March 20, 2009. The DA will determine what if any charges to file against any other officer.
- **Hiring independent firm for internal affairs investigation of all officers present on platform:** BART retained the Meyers Nave law firm on February 11, 2009 to perform its internal affairs investigation to ensure that it is a complete and independent.
- **Establish civilian oversight for the BART Police Department:** The Committee has been reviewing the different civilian oversight models to determine what is best suited to BART and the communities it serves. That work will accelerate in May when BART begins to hold public forums to solicit input on a model. In addition, there's legislation in Sacramento that would require BART to create civilian oversight for its police force. On April 13, 2009, the Chair of the BART Police Department Review Committee on behalf of the Board, the General Manager, Chief of Police and the Presidents of the two BART police associations, signed a joint letter to the Bay Area legislative delegation assuring them of BART's intention to create civilian oversight of BART Police and to assure the delegation that BART is actively working toward that goal.

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#2009-093

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September 29, 2009

FOR IMMEDIATE RELEASE

## BART RECEIVES LAST OF KEY REPORTS RECOMMENDING BART POLICE IMPROVEMENTS

### BART ALREADY TAKING STEPS TO IMPROVING POLICING SERVICES

**OAKLAND, CA** – BART has received the last of the two independent reports it commissioned from outside experts in response to the New Years Day officer-involved shooting at Fruitvale Station. This latest management audit comes as the agency continues to take a number of significant steps to improve its policing services.

In April, BART hired the National Organization of Black Law Enforcement Executives or NOBLE to look beyond the specific shooting incident and provide a thorough and independent top-to-bottom assessment of the BART Police Department. The audit contains 23 major recommendations.

On Thursday, October 1, NOBLE will present the BART Board a draft of its findings, many of which address:

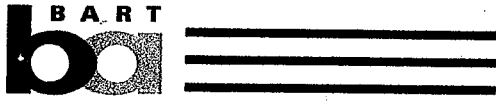
- **Recruitment, Selections & Promotions**
- **Training**
- **Discipline**
- **Use of Force**
- **Police Operations**
- **Citizen Oversight**
- **Policies and Procedures**
- **Biased-based Policing/Racial Profiling**

The BART Police Department has already begun implementing changes in many of these areas.

"This draft report is one of the important results of the hard work done by the BART Police Department Review Committee that I appointed in early January," BART Board President Thomas Blalock said. "I appreciate their efforts, which I believe are helping to open a new chapter in our continuing efforts to improve police services at BART. What has made BART a resilient agency over the years is the fact that we're not afraid to scrutinize ourselves by looking into the mirror to find our flaws and then making the necessary changes for the betterment of the taxpayers and riders of BART."

"We view this report as a very valuable resource," BART Board Member Carole Ward Allen, who chairs the Board of Directors BART Police Department Review Committee, said. "NOBLE has identified a number of opportunities for improvement and we intend to use the report to guide us on how we can enhance the policing services at BART."

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"The NOBLE report is thorough, comprehensive and includes serious and substantive recommendations for changes needed to improve policing at BART," BART General Manager Dorothy Dugger said. "We are reviewing the draft report and its recommendations carefully and will begin the process of prioritizing the recommendations for implementation. This draft report has identified areas where we can and must improve and points out the best practices in the industry."

## KEY FINDINGS & RECOMMENDATIONS

The draft NOBLE report makes 23 major recommendations including:

- Revising the BART policy manual & training officers on new policies
- Developing and implementing more comprehensive training methods
- Establishing better data collection/record keeping to support analysis tracking & compliance
- Instituting more comprehensive use-of-force policy
- Revising the methods of personnel selection in hiring & promotions
- Increasing presence of police on trains/in stations
- Implementing on-going strategies for community involvement
- Develop and implement a computerized early intervention system
- Adopting a more traditional police discipline system
- Adopting a more efficient organizational structure

## ACTIONS BART HAS ALREADY TAKEN

In August, BART received a separate set of reports from Meyers Nave - the law firm it hired to conduct an independent internal affairs investigation of the New Year's Day shooting.

- The Police Department is finalizing an action plan to respond to the Meyers Nave recommendations
- The Board's Police Department Review Committee will review and report monthly on progress in implementing these recommendations

The BART Police Department had initiated changes in a number of important areas, which include:

### USE OF FORCE:

- All use-of-force incidents will now be reported and investigated instead of just significant use-of-force incidents
- Use-of-force reports are forwarded through the chain of command and filed with Internal Affairs
- A new review panel now reviews all uses-of-force incidents and reports recommendations to the Chief of Police

### TRAINING:

- The BART Police Department training plan and budget will provide 40 hours of training per year for officers (Police Officers Standards and Training requires a minimum of 24 hours every 2 years)
- Training curriculum includes: cultural diversity, racial profiling, tactical and inter-personal communication, policy manual review, firearms/range/use of force options/policy review, defensive tactics/arrest control, taser recertification, among other topics.

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## **POLICY MANUAL UPDATE:**

- The BART Police Department is in the process of updating its policy manual
- The first group of 8 critical policies has been revised and will be issued by September 30. All BART police officers have now been trained on these first 8 revised policies as part of this year's expanded training program. Those 8 critical policies are:
  1. Racial/Bias Based Profiling
  2. Shooting Policy
  3. Electronic Control Device (i.e., Taser)
  4. Officer Response to Calls
  5. Use of Force
  6. Control Devices and Techniques
  7. Vehicle Pursuit Policy
  8. Officer-Involved Shootings

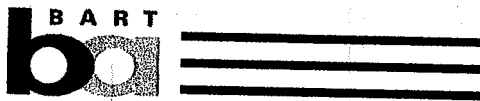
## **DISCIPLINE & PROBATION PERIODS:**

- BART has reached agreement with the BART Police Managers Association (BPMA) and is in negotiations with the BART Police Officers Association (BPOA) to adopt a more traditional police disciplinary system
- BART has reached agreement with BPMA to establish a 1-year probationary period for all police management positions

## **ORGANIZATIONAL STRUCTURE:**

- BART has reached agreement with BPMA to remove the two commander positions from the collective bargaining unit

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July 24, 2009

FOR IMMEDIATE RELEASE

## BART TO PRESENT DRAFT MODEL OF CITIZEN OVERSIGHT OF BART POLICE

OAKLAND, CA – On Thursday, July 30, the BART Board of Directors will hold a special board meeting to discuss the draft proposal to create independent citizen oversight of the BART Police Department. The meeting will take place at 6:30 p.m. in the MetroCenter auditorium located at 101 8<sup>th</sup> Street in Oakland (across from the Lake Merritt Station).

### HIGHLIGHTS OF THE DRAFT MODEL

The draft proposal of the citizen oversight model includes the following components:

- An independent auditor who is appointed by and reports directly to the BART Board of Directors
- An 11 member Citizen Board
- The power to investigate complaints against officers
- The power to recommend discipline against officers

“Our goal is to provide an effective, independent citizen oversight system that promotes integrity and encourages systemic change and improvement in the police services BART provides to the public,” BART Board Member Carole Ward Allen said. Ward Allen chairs the BART Police Department Review Committee, which the Board established to provide greater oversight of the BART Police Department and to take the necessary steps to make sure the tragedy of New Year’s Day never happens again.

“The proposed model of citizen oversight would ensure that internal police accountability systems are functioning properly and that behavioral, procedural and policy deficiencies are identified and addressed,” Ward Allen said. “The Office of the Independent Police Auditor would be responsible for investigating all complaints thoroughly, fairly and objectively for all parties involved. The auditor would be responsible for investigating specific complaints, including racial profiling and allegations of racially abusive treatment among other identified complaints. The Citizen Board would provide public transparency into the activities of the BART Police Department by reviewing reports of complaints, allegations of police misconduct and reviewing and commenting on all changes to procedures and practices, including police training.”

“It is vitally important that our customers have faith in our police department,” BART Board Member Lynette Sweet said. Sweet is also a member of the BART Police Department Review Committee. “We have never had an independent arm to oversee the actions of the BART Police Department. We believe by taking this significant and historic step we can reaffirm people’s trust in our police force following the January 1 shooting of Oscar Grant at our Fruitvale Station.” Sweet, along with BART Board Member Tom Radulovich and members of the public, is part of a nine-member subcommittee that’s tasked with developing the proposed model of citizen oversight of the BART Police Department.

“Two important components of the proposed citizen oversight of BART Police are the establishment of the Office of the Independent Police Auditor and a Citizen Board,” Radulovich said. “The BART Board would appoint the auditor and she or he would be wholly independent of other BART staff. The Citizen Board would be involved in reviewing and recommending discipline of police officers among other duties. This allows for two avenues of strong citizens’ involvement of allegations of police misconduct.”

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**08.04.09**

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## **BART Police Department Review Committee to meet Aug. 10**

The BART Police Department Review Committee and Subcommittee will meet on Monday, Aug. 10, 2009, at 10:00 a.m. in the BART Board Room, which is located in the Kaiser Center 20th Street Mall, Third Floor, 344 20th St., Oakland, CA.

The meeting will include discussion of public comments received on the draft model of citizen oversight of the BART Police Department. Public comment is being taken on the draft model of citizen oversight through Friday, Aug. 7, via email to [boardofdirectors@bart.gov](mailto:boardofdirectors@bart.gov) or U.S. Mail to: BART Board of Directors, P.O. Box 12688, Oakland, CA 94604-2688.

On July 30, nearly 60 people attended a BART Board of Directors special board meeting to discuss the draft proposal. Go to [BARTtv](#) to watch video from that special board meeting.

"We are very pleased with how well the meeting went and the process we implemented to draft the proposed citizen police oversight plan," BART Board Member Carole Ward Allen said. "We used the Helgesen 'web of inclusion' model to involve everyone in this vision. To have the members of the community and Oscar Grant's family participate in creating our oversight model is very significant." Dr. Ward Allen chairs the BART Police Department Review Committee, which was established by BART Board President Thomas Blalock to take the necessary steps to make sure the tragedy of New Year's Day never happens again. "I selected BART Board Member Radulovich to chair the sub-committee charged with formulating the police oversight because of his interest and expertise in the area," Dr. Ward Allen added.

### **HIGHLIGHTS OF THE DRAFT MODEL**

The draft proposal of the citizen oversight model includes the following components:

- An independent auditor who is appointed by and reports directly to the BART Board of Directors
- An 11-member Citizen Board
- The power to review BART police policies, practices and procedures, and recommend changes
- The power to investigate complaints against officers
- The power to recommend discipline against officers

You can find a copy of the draft BART Citizen Oversight Model at [www.bart.gov](http://www.bart.gov), under the Board of Directors' July 30 [special board meeting agenda](#).



"I look forward to another subcommittee meeting to discuss comments from the public before we adopt the final resolution," BART Board Member Lynette Sweet said. "We gained a lot from the remarks we heard from the public who attended Thursday's meeting. We encourage all of our customers to be involved and help us make the BART Police Department the best it can be." Sweet, along with members of the public, is also part of the nine-member subcommittee that's tasked with developing the proposed model of citizen oversight of the BART Police.

[Download directions to the BART Board Room](#)

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## **BART receives final reports on New Years Day shooting**

BART has received the two reports from the law firm it hired to conduct an independent internal affairs investigation of the BART Police officers involved in the New Year's Day officer-involved shooting at Fruitvale Station. The first report contains extensive information regarding personnel matters, which are confidential and cannot be released under state law. However, the firm BART hired, Meyers Nave, has also completed a public report, which is limited to those aspects of the investigation that are not confidential and not protected from disclosure by state law.

Typically, internal affairs investigations are handled by the internal affairs divisions of police departments. However, to ensure objectivity and complete independence, the BART Board of Directors, in an unprecedented move, chose to have an external party do this review. BART retained Meyers Nave, which has extensive experience in investigating police conduct, to independently investigate whether the actions of officers on the platform violated BART Police policies and procedures and to make recommendations in response to any findings. BART also asked the firm to make recommendations in response to any findings regarding department policies, procedures or practices in a report that could be released publicly. That report is being released today.

"This report is one of the important results of the hard work done by the BART Police Department Review Committee that I appointed in early January," BART Board President Thomas Blalock said. "I appreciate their efforts, which I believe are helping to open a new chapter in our continuing efforts to improve police services at BART."

"We view this report as a very valuable tool that will help us to improve BART's efforts to keep our system safe for all riders while helping to prevent such incidents in the future," BART Board Member Carole Ward Allen, who chairs the Board of Directors BART Police Department Review Committee said. "Meyers Nave has identified a number of tactical deficiencies as well as areas that need improvement and we intend to see that these issues are addressed promptly."

"These two reports are thorough, comprehensive and include serious and substantive recommendations for changes needed to improve policing at BART," BART General Manager Dorothy Dugger said. "We are reviewing the reports and their recommendations carefully and are moving forward through our internal process to consider and act on the recommendations as swiftly as possible. In fact, changes in some key areas are already underway."



objective reports that have led to the discipline of officers, if appropriate, as well as changes in the policies and procedures of law enforcement agencies."

### **PUBLIC REPORT'S KEY FINDINGS & RECOMMENDATIONS**

The public report on BART's police policies, practices and procedures identified a number of areas where BART can improve its response to future incidents and also strengthen its own investigations and reporting of use-of-force incidents. The report's recommendations include:

- Updating the BART policy manual
- Reinforcing tactical concepts
- Improving communications and leadership during incidents
- Instituting more strenuous use-of-force reporting requirements and investigations
- Enhancing transparency into the process
- Training officers on updated policies
- Additional Taser training for officers

### **ACTIONS CURRENTLY UNDERWAY**

The General Manager has directed the Chief of Police to develop an action plan within the next 30 days responding to the Meyers Nave recommendations. The BART Board Police Department Review Committee will review and report monthly on progress in implementing these recommendations. Prior to receipt of the Meyers Nave report, the BART Police Department had initiated changes in three important areas identified in the Meyers Nave recommendation. They include:

#### **USE OF FORCE:**

- All use-of-force incidents will now be reported and investigated instead of just significant use-of-force incidents
- Use-of-force reports are forwarded through the chain of command and filed with Internal Affairs
- A new review panel has been established to review all uses-of-force and report recommendations to the Chief of Police

#### **TRAINING:**

- The BART Police Department training plan and budget will provide 40 hours of training per year for officers (Police Officers Standards and Training requires a minimum of 24 hours every two years)
- Training curriculum includes: cultural diversity, racial profiling, tactical and inter-personal communication, policy manual review, firearms/range/use of force options/policy review, defensive tactics/arrest control, taser



## POLICY MANUAL UPDATE:

The BART Police Department is in the process of updating its policy manual using the services of Lexipol, a nationally recognized firm which incorporates the most current legal and regulatory requirements and standards, as well as best practices of law enforcement, into model policies and procedures for use by law enforcement agencies around the country.

The first group of 8 critical policies has been revised and will be issued within the next month. All BART police officers will receive training within the next 30-days on these first 8 revised policies as part of this year's expanded training program.

### Review of BART PD Policies, Practices and Procedures Key Findings & Recommendations

**Findings :** The BART Policy manual had not been updated in some areas since the 1970s, 1980s or 1990s.

**Recommendations :** The manual as a whole be completely reviewed; update all policies on at least an annual basis; BART officers receive regular training on updated policies.

**Findings :** Shortcomings in tactics used by officers responding to the Fruitvale incident; officers did not follow recommended procedures; officers failed to work as a team reducing their effectiveness by working independently while also increasing their chances of being assaulted; lapses in tactical communication and leadership.

**Recommendations :**

- Develop and publish a policy-level document outlining that supervisors and senior officers assert command and control over a situation as a primary responsibility.

- Provide additional training in enhanced tactics and team strategy to deal with hostile incidents.

- Provide additional Taser training; require officers to wear Taser on opposite side of body from firearm or position Taser so it must be drawn with opposite hand as firearm.

- Take an integrated tactical approach to potentially hostile incidents; officers should immediately request back-up when necessary; one officer should assume control and direct other officers in their actions to control situations.

- Review detention policies to ensure a more expedient turn-around of detainees and better conditions for physical detention so detainees that are not under arrest are not held in hand-cuffs for long periods of time.



Recommendations : Require reporting and more thorough investigation of any incident in which force is used, not just significant use of force.

Findings : BART has had very few deadly force incidents in its history; and some decisions made following the Fruitvale incident could be improved in regards to debriefing and interviewing officers at the scene.

Recommendations :

Require a supervisor to respond and conduct an immediate on-scene investigation and canvass scene for witnesses and evidence.

Tactics used during every use-of-force incident should be reviewed and commented upon.

In every use-of-force incident, officers should be debriefed, and in cases where officers were deficient, BART should make a decision to remediate, retain or discharge the officers in question.

Findings : Enhance transparency and accountability.

Recommendations : Consider retaining a reputable auditing or oversight firm with experience in police matters to conduct on-going meaningful audits and evaluations of the BART Police Department.

Findings : Critical reporting mechanisms are deficient.

Recommendations :

Overhaul nearly all critical reporting mechanisms.

Develop policies using best practices from other agencies to enhance BART's risk management practices.

Institute Chief-level review of all use-of-force reports and personnel complaints.

Chief of Police should review and approve all use-of-force incident reports, which should be used as a means to continually improve performance of the Department.

**Public Report: Review of BART PD Policies, Practices and Procedures**

**Re: New Year's Day 2009 (426k .pdf)**



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## **Oscar Grant family and BART issue joint statement on New Year's tragedy**

### *Grant family calls for peace, love and forgiveness*

As the year anniversary of the tragic officer-involved shooting at Fruitvale Station of BART passenger Oscar Grant draws near, the Grant family and the BART Board of Directors are joining together to thank the public for their continued support for the reforms taking place in the BART Police Department.

Additionally, Oscar Grant's mother, Wanda Johnson, wants to emphasize that people should honor her son's memory on January 1 through "a day of celebration not demonstration." She added, "It is our hope that this day be a peaceful day to remember Oscar and the others who have been lost to violence."

"We want the public to know we are a family of peace, love and forgiveness," Oscar's uncle Cephus Johnson said. "In the year since my nephew was killed, I truly believe positive changes have occurred in the BART Police Department and many more will come. We want to thank the public for their continued involvement in making the BART Police the best it can be as we enter 2010."

"On behalf of the BART Board of Directors, we want to again express our deepest and sincerest regret and our heartfelt condolences over the loss of Oscar Grant," BART Director Carole Ward Allen said. Ward Allen chairs the BART Police Department Review Committee, which is guiding the implementation of the changes within the police department. "We look forward to making more positive changes in 2010, including the hiring of a new police chief and working with the State Legislature to quickly amend the law so BART can implement independent citizen oversight of the BART Police Department."

"This has been one of the most gut-wrenching episodes in BART's history," BART Board President James Fang said. "But through community involvement, non-biased professional assistance from the outside of BART and of course the extremely strong effort by our Board, particularly the efforts of Carole Ward Allen, we have learned from this tragic incident. Our prayers and deepest sympathies go to the Grant family on this inauspicious one-year anniversary of Oscar Grant's death."

"We want to thank the Grant family and the public for their support, which has been critical to making the reforms underway in the Police Department and we look forward to their continued support in the new year," Director Ward Allen said.



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## **BART reaches \$1.5 million settlement for daughter of Oscar Grant**

Late this afternoon, BART reached an agreement with the mother of Oscar Grant's young daughter Tatiana. The settlement is for \$1.5 million and stems from the \$50 million lawsuit filed against the agency following the officer-involved shooting that took place on the Fruitvale BART Station platform early New Year's Day. BART officials issued the following statements:

"It's been a little over a year since we experienced the tragic death of Oscar Grant," BART Board President James Fang said. "No matter what anyone's opinion of the case may be, the sad fact remains this incident has left Tatiana without a father. The \$1.5 million settlement will provide financial support for her. A federal judge oversaw the settlement proceedings and the structure of the settlement will still need to be approved by the court. While these proceedings have been taking place, we on the BART Board have been taking the actions needed to improve the BART Police Department to ensure our officers are better-trained and better-equipped to keep our customers safe."

"This settlement is critical in our efforts to move forward," BART Board Member Carole Ward Allen said. Ward Allen chairs the BART Police Department Review Committee, which is guiding the implementation of the changes within the police department. "We're working hard to make the Police Department the best it can be for our officers, our customers and our community."

### **BART POLICE REFORMS UNDERWAY**

Since the shooting, BART has made a number of significant changes including:

- Working with the State Legislature to pass a bill (AB1586) on citizen oversight of the BART Police Department implemented – Monday, January 25, the State Assembly passed AB1586 (67-0), it now heads to the State Senate.

- More than tripling the number of training hours provided all officers, including increased training in crowd control, defensive tactics and Taser use.

- Involving the public in BART's search for a new police chief.

- Increasing police visibility in stations and on trains.

- Requiring officers to report all use-of-force incidents, not just those deemed "significant," with each incident thoroughly reviewed by a newly-established panel that determines the next appropriate steps of action.

Any questions should be directed to BART's outside counsel, Dale Allen, at 415-981-6630.